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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,065	12/02/2003	Wayne G. Dahulich	070028-0135	2567

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EXAMINER

GRAYSAY, TAMARA L

ART UNIT PAPER NUMBER

3636

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/726,065

Applicant(s)

DAHULICH, WAYNE G.

Examiner

Tamara L. Graysay

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### **DETAILED ACTION**

The preliminary amendment filed 31 December 2003 has been entered.

#### ***Drawings***

1. The drawings are objected to because of the following:
  - a. They fail to comply with 37 CFR 1.84(u)(2) because the view numbers are not larger than the numbers used for reference characters. (FIG. 8 and 9).
  - b. They fail to comply with 37 CFR 1.84(p)(5) because they do not include the following reference character(s) mentioned in the description: "51" at [0033].

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Claim Objections***

2. Claim 5 is objected to because of the following informalities: A typographical error is present at line 1, [interface] should be support as depicted in the drawings and described in the specification.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 7-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7: The preamble is limited to an internal support structure intended to be used for a tent having a shell, however, the body of the claim positively recites the interface members extending from an inside surface of the shell. Thus, the claim is unclear whether the shell is included in the claimed combination. Applicant must clarify the metes and bounds of patent protection desired.

Claim 13: The preamble of the claim is limited to an internal support structure; however, the body of the claim positively recites the shell. Thus, the claim is unclear whether the shell is included in the claimed combination. Applicant must clarify the metes and bounds of patent protection desired.

Claim 20: The terms “first rectangular tube” and “second rectangular tube” lack antecedent basis in the claim. However, the claim has been treated as though it is dependent upon claim 19, which provides antecedent basis for the claim terms.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5, 7, 8, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Dahulich (US-5335685).

Claim 1: Dahulich discloses a tent comprising: a shell (48, 30) defining an internal space having a plurality of interface members (18, 19, 32, 50) extending from an inside surface of the shell (e.g., FIG. 6); at least one internal support structure (12) to provide support to the shell; a plurality of support members (upper end of 12) coupled to the internal support structure (unitarily or integrally coupled) and configured to engage the interface members to couple the internal support to the shell (via hollow inner portion, e.g., FIG. 3); wherein the internal support (12) is disposed adjacent and parallel to increase useable space within the internal space (e.g., FIG. 1, 3).

Claims 2 and 3: Dahulich discloses maximizing the useable space within the internal space (see FIG. 1, 3 which depict the internal support being at the far corners of the shell).

Claim 4: Dahulich discloses the shell (48, 30) draping at least a portion of the internal support structure (see FIG. 3, 6).

Claim 5: Dahulich discloses a receptacle (upper end of internal support structure 12) that receives the interface member (19).

Claim 7: Dahulich discloses an internal support structure comprising: a plurality of interface members (18, 19, 32, 50) extending from an inside surface of a shell (48, 30); at least one internal support structure (12) configured (via its vertical arrangement) to provide structural support to the shell; a plurality of support members (upper end of 12) coupled to the internal support structure (unitarily or integrally coupled) and configured to engage the interface members (via hollow inner portions, e.g., FIG. 3); wherein the internal support (12) is disposed adjacent and generally parallel to substantially increase useable space within the internal space (e.g., FIG. 1, 3).

Claim 8: Dahulich discloses each support member (upper end of 12) includes a receptacle (hollow upper end of 12) configured to receive one interface member (19, e.g., FIG. 4, 6).

Claim 13: Dahulich discloses no poles in the middle area of the internal space (e.g., FIG. 1).

Claim 14: Dahulich discloses a tent comprising: a shell (48, 30) defining an internal space (e.g., FIG. 1); means (12) for providing internal support to the shell without occupying a middle portion of the internal space (e.g., FIG. 1).

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5. Claims 1, 6, 7, 12, 14-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Hammond (US-4442626).

Claims 1 and 6: Hammond discloses a tent comprising: a shell (10) defining an internal space having a plurality of interface members (3, 4, 5) extending from an inside surface of the shell (e.g., FIG. 3); at least one internal support structure (1) to provide support to the shell; a plurality of support members (12, FIG. 5a) coupled to the internal support structure (2:58-65) and configured to engage the interface members (3, 4, 5) to couple the internal support to the shell (aperture 13, FIG. 5a); wherein the internal support (1) is disposed adjacent and parallel to increase useable space within the internal space (e.g., FIG. 1 depicts parallel lower ends of support structure 1 and plurality of support members parallel to each other), wherein each support member (12, FIG. 5a) comprises a receptacle (13) configured to receive one interface member (portion 5).

Claims 7 and 12: Hammond discloses an internal support structure comprising: a plurality of interface members (more than one of member represented by reference characters 3, 4, 5) extending from an inside surface of a shell (FIG. 1); at least one internal support structure (1) configured (via its vertical arrangement) to provide structural support to the shell (10); a plurality of support members (12, FIG. 5a) coupled to the internal support structure (2:58-65) and configured to engage the interface members (represented by reference characters 3, 4, 5); wherein the internal support (1) is disposed adjacent and generally parallel to substantially increase useable space within the internal space (e.g.,

FIG. 1 depicts parallel lower ends of support structure 1 and plurality of support members parallel to each other), wherein the internal support structure is an arch (e.g., FIG. 1).

Claims 14 and 15: Hammond discloses a shell (10) defining an internal space; means (1, 14, 15) for providing internal support to the shell without occupying a middle portion of the internal space (e.g., FIG. 1, 3);

wherein means (1, 14, 15) for providing internal support to the shell comprises an arch (e.g., see FIG. 1) and at least one support member (14) extending from the arch to engage the shell (10, e.g., FIG. 1);

Claim 16: Hammond further discloses wherein the shell (10) includes at least one interface member (3, 4, 5) extending from an inside surface (as depicted in FIG. 3, portion 5 of the interface member extends from the inside surface of the shell) and configured to engage (via 4, 5) the support member (e.g., via aperture 15 in support member 1, 14).

Claim 17: Hammond further discloses wherein engagement of the support member (14, 15) and the interface member (3, 4, 5) is configured to provide a space between the shell (10) and the means for providing internal support (1, see FIG. 5b for example which depicts the support member extending from the arch thereby providing a space).

Claim 18: Hammond further discloses an aperture (15) in the support member (14) which provides sliding engagement of the interface member (portion 5).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahulich (US-5335685) in view of Cawthon (US-5555681).

Claims 9 and 10: Cawthon teaches a support structure (e.g., 18, 20) having either round / circular tube shaped members (e.g., FIG. 4, 10) or rectangular tube shaped members (e.g., FIG. 2, 3, 6, 11). The components perform equally well whether circular or rectangular. The use of circular or rectangular is a matter of design choice that is within the level of ordinary skill in the art of structural design depending upon the particular application. For example, one of ordinary skill would use support and interface members that are rectangular in order to prevent the members from rolling when placed on the ground during assembly of the structure and when packaged during the manufacturing assembly process, as well as ensure proper alignment of the members when assembled.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute rectangular support and interface members for the round / circular support and interface members of Dahulich, in order to prevent the members from rolling when placed on the ground during assembly of the structure and when packaged during the manufacturing assembly process, and ensure proper alignment of the members when assembled.

Claim 11: In addition to that mentioned with regard to claim 10/9/8/7 above, Dahulich further discloses interface members (18, 19, 32, 50) include a pair of tabs having slots (the slots are formed between 54-60 and between 60-62).

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7. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammond (US-4442626).

Claim 19: In addition to the features discussed in paragraph 5 above, Hammond discloses a round or circular interface member and support member. It is well settled that the shape of an element is a matter of design choice presents no novel or unexpected result over the metallic connections used in the references. Use of such a rectangular interface and support member in lieu of the round or circular interface and support members used in the Hammond reference solves no stated problem and would have been an obvious matter of design choice within the level of ordinary skill in the art. Such an arrangement would ensure proper alignment of the interface member and support member due to the multiple flat faces of the rectangles.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute rectangular interface member and rectangular aperture in the support member, in order to ensure proper alignment of the interface member and support member due to the multiple flat faces of the rectangles.

Further the support member aperture is tubular, as broadly recited. The interface member (3) is solid. However, use of a hollow or tubular member in lieu of a solid member would have been an obvious matter of design choice within the level of ordinary skill in the art. Such an arrangement would reduce the weight of the member, thereby making it easier to assemble and reduce shipping and handling costs.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify Hammond to include a hollow or tubular

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interface member in lieu of the solid member in order to reduce the weight of the member, thereby making it easier to assemble and reduce shipping and handling costs.

Claim 20 (treated as dependent upon claim 19): Hammond discloses an inside dimension of the support member aperture larger than an external dimension of the interface member (see FIG. 3, for example, which depicts the interface member extending through the support member aperture).

***Conclusion***


8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Williams teaches a shell (14) over an arched internal support (12) providing an internal space that is free of supports. The shell is connected to the internal support using an interface member (162) that extends from the inside surface of the shell (14) into the support member (108).
- Hwang teaches a shell (6), an interface member (1, 61), and internal support member (3', 3).
- Bird, Stokes, Commisso, and Skog teach arched internal support means for a shell.
- Suessle teaches interface members extending into support members.
- Denn teaches an interface member (42) extending from the inner surface of a shell (not shown) and engaging with the support member (40) via a receptacle (40a, FIG. 2).
- Stone teaches a support member extending through the shell.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara L. Graysay whose telephone number is (571) 272-6728. The examiner can normally be reached on Mon - Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Cuomo, can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Tamara L. Graysay  
Examiner  
Art Unit 3623